

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA
SCRANTON DIVISION**

CASE NO.:

MICHAEL SEAN RUSSELL,

Plaintiff,

v.

SELECT GROUP, LLC dba CENTURY 21
SELECT GROUP,

Defendant.

COMPLAINT FOR COPYRIGHT INFRINGEMENT

(INJUNCTIVE RELIEF DEMANDED)

Plaintiff MICHAEL SEAN RUSSELL by and through his undersigned counsel, brings this Complaint against Defendant SELECT GROUP, LLC dba CENTURY 21 SELECT GROUP for damages and injunctive relief, and in support thereof states as follows:

SUMMARY OF THE ACTION

1. Plaintiff MICHAEL SEAN RUSSELL (“Russell”) brings this action for violations of exclusive rights under the Copyright Act, 17 U.S.C. § 106, to copy and distribute Russell's original copyrighted Work of authorship.

2. Russell is a British Columbia photographer that was born in North Vancouver next to the peaks of the Pacific Coast Range. His interest in science and nature started when he was young and extended into University where he obtained a BSc. in Biological Sciences from Simon Fraser University. He has traveled throughout the southwest of British Columbia and Washington State exploring and taking photographs.

3. Defendant SELECT GROUP, LLC dba CENTURY 21 SELECT GROUP (“Select”) is an independently owned and operated franchise of Century 21® located in Pocono Pines, Pennsylvania. At all times relevant herein, Select owned and operated the website located at the internet URL www.c21poconoselectgroup.com (the “Website”).

4. Russell alleges that Select copied Russell’s copyrighted Work from the internet in order to advertise, market and promote its business activities. Select committed the violations alleged in connection with Defendant's business for purposes of advertising and promoting sales to the public in the course and scope of the Select's business.

JURISDICTION AND VENUE

5. This is an action arising under the Copyright Act, 17 U.S.C. § 501.

6. This Court has subject matter jurisdiction over these claims pursuant to 28 U.S.C. §§ 1331, 1338(a).

7. Select is subject to personal jurisdiction in Pennsylvania.

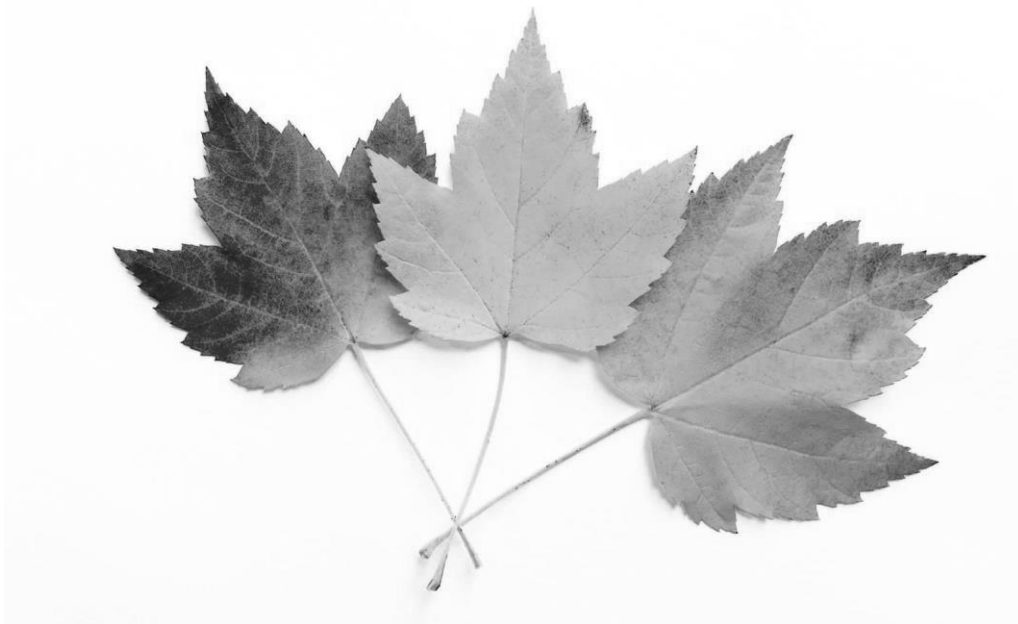
8. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) and 1400(a) because the events giving rise to the claims occurred in this district, Select engaged in infringement in this district, Select resides in this district, and Select is subject to personal jurisdiction in this district.

DEFENDANT

9. Select Group, L.L.C. dba Century 21 Select Group is a Pennsylvania Limited Liability Company, with its principal place of business at 5119 Pocono Crest Road, Pocono Pines, Pennsylvania, 18350, and can be served at the same address.

THE COPYRIGHTED WORK AT ISSUE

10. In 2017, Russell created the photograph entitled “sugar-maple-leaves-fall-41141,” which is shown below and referred to herein as the “Work”.



11. Russell registered the Work with the Register of Copyrights on January 7, 2018 as part of a group registration. The Group Registration was assigned registration number VA 2-084-306. The Certificate of Registration is attached hereto as **Exhibit 1**.

12. At all relevant times Russell was the owner of the copyrighted Work at issue in this case.

INFRINGEMENT BY SELECT

13. Select has never been licensed to use the Work at issue in this action for any purpose.

14. On a date after the Work at issue in this action was created, but prior to the filing of this action, Select copied the Work.

15. On or about March 1, 2023, Russell discovered the unauthorized use of his Work on the Website.

16. Select copied Russell's copyrighted Work without Russell's permission.

17. After Select copied the Work, it made further copies and distributed the Work on the internet to promote the sale of goods and services as part of its real estate sales business.

18. Select copied and distributed Russell's copyrighted Work in connection with Defendant's business for purposes of advertising and promoting Defendant's business, and in the course and scope of advertising and selling products and services.

19. Select committed copyright infringement of the Work as evidenced by the documents attached hereto as **Exhibit 2**.

20. Russell never gave Select permission or authority to copy, distribute or display the Work at issue in this case.

21. Russell notified Select of the allegations set forth herein on September 7, 2023 and September 29, 2023. To date, the parties have failed to resolve this matter.

COUNT I
COPYRIGHT INFRINGEMENT

22. Russell incorporates the allegations of paragraphs 1 through 21 of this Complaint as if fully set forth herein.

23. Russell owns a valid copyright in the Work at issue in this case.

24. Russell registered the Work at issue in this case with the Register of Copyrights pursuant to 17 U.S.C. § 411(a).

25. Select copied, displayed, and distributed the Work at issue in this case and made derivatives of the Work without Russell's authorization in violation of 17 U.S.C. § 501.

26. Select performed the acts alleged in the course and scope of its business activities.

27. Defendant's acts were willful.

28. Russell has been damaged.

29. The harm caused to Russell has been irreparable.

COUNT II
ADDITION OF FALSE COPYRIGHT MANAGEMENT INFORMATION

30. Russell incorporates the allegations of paragraphs 1 through 21 of this Complaint as if fully set forth herein.

31. The Work at issue in this case contains false copyright management information (“CMI”).

32. Select knowingly and with the intent to enable or facilitate copyright infringement, added CMI by positioning the Work directly to the right of the company name, and adding “Autumn” to the Work at issue in this action in violation of 17 U.S.C. § 1202(a).

33. Select committed these acts knowing or having reasonable grounds to know that it will induce, enable, facilitate or conceal infringement of Russell's rights in the Work at issue in this action protected under the Copyright Act.

34. Select caused, directed and authorized others commit these acts knowing or having reasonable grounds to know that it will induce, enable, facilitate or conceal infringement of Russell's rights in the Work at issue in this action protected under the Copyright Act.

35. Select applied its own false CMI upon the Work.

36. After applying the false CMI to the Work, Select published the Work in violation of 17 U.S.C. § 1202(a).

37. Russell has been damaged.

38. The harm caused to Russell has been irreparable.

WHEREFORE, the Plaintiff MICHAEL SEAN RUSSELL prays for judgment against the Defendant SELECT GROUP, LLC dba CENTURY 21 SELECT GROUP that:

- a. Select and its officers, agents, servants, employees, affiliated entities, and all of those in active concert with them, be preliminarily and permanently enjoined from committing the acts alleged herein in violation of 17 U.S.C. § 501;
- b. Select be required to pay Russell his actual damages and Defendant's profits attributable to the infringement, or, at Russell's election, statutory damages, as provided in 17 U.S.C. § 504;
- c. Russell be awarded his attorneys' fees and costs of suit under the applicable statutes sued upon;
- d. Russell be awarded pre- and post-judgment interest; and
- e. Russell be awarded such other and further relief as the Court deems just and proper.

JURY DEMAND

Russell hereby demands a trial by jury of all issues so triable.

Dated: January 15, 2025

Respectfully submitted,

/s/ Joseph A. Dunne

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